

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

DAVID W. LINDER,)	
)	
Petitioner,)	
)	
v.)	No. 2:20-cv-00609-JPH-DLP
)	
B. LAMMER,)	
)	
Respondent.)	

**Order Discussing Petition for Writ of Habeas Corpus
and Directing Petitioner to Show Cause**

David Linder, a federal prisoner incarcerated at the Federal Correctional Institution in Terre Haute, Indiana, filed a motion for release on bond pending appeal, which was treated as a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. As a result, this action was opened.

The petition is subject to preliminary review to determine whether "it plainly appears from the face of the petition and any exhibits annexed to it that the petitioner is not entitled to relief in the district court." Rule 4 of the *Rules Governing § 2254 Cases* (applicable to § 2241 petitions pursuant to Rule 1(b)); *see* 28 U.S.C. § 2243. If so, the petition must be summarily dismissed. Rule 4. A federal court may issue the writ of habeas corpus sought in this action only if it finds the applicant "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). "A necessary predicate for the granting of federal habeas relief [to a petitioner] is a determination by the federal court that [his or her] custody violates the Constitution, laws, or treaties of the United States." *Rose v. Hodges*, 423 U.S. 19, 21 (1975). Habeas corpus petitions must meet heightened pleading requirements. *McFarland v. Scott*, 512 U.S. 849, 856


(1994). Notice pleading does not suffice in an action for habeas corpus relief. *See Lloyd v. Van Natta*, 296 F.3d 630, 633 (7th Cir. 2002).

The petition does not provide evidence or legal argument to show that Mr. Linder's custody is illegal. It therefore does not show that Mr. Linder is entitled to habeas relief. Mr. Linder shall have **through January 11, 2021**, in which to **file an amended petition for a writ of habeas corpus** which coherently sets forth his claim(s) for relief. *Mayle v. Felix*, 545 U.S. 644, 661 (2005) ("Habeas Corpus Rule 2(c) . . . instructs petitioners to "'specify all available grounds for relief' and to 'state the facts supporting each ground.'"). The **clerk shall include** a form habeas corpus petition with Mr. Linder's copy of this Order.

Mr. Linder's filing references a Court of Appeals cause number. To the extent Mr. Linder seeks bond pending appeal, he should file the motion in his appellate case. It does not appear that Mr. Linder is appealing a judgment issued by this Court.

SO ORDERED.

Date: 12/7/2020


James Patrick Hanlon
United States District Judge
Southern District of Indiana

Distribution:

DAVID W. LINDER

25913-048

TERRE HAUTE - FCI

TERRE HAUTE FEDERAL CORRECTIONAL INSTITUTION

Inmate Mail/Parcels

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